

Notice of Allowability

Application No.

09/716,962

Examiner

Tamthom N. Truong

Applicant(s)

SOUTH ET AL.

Art Unit

1624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 04-05-04.
2. ☒ The allowed claim(s) is/are 62-97.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Allowable Subject Matter

Applicant's response of 04-05-04 has been considered. In view of the MPEP §804(I)(B) regarding an outstanding provisional ODP as a sole issue, the previous provisional ODP is withdrawn herein since the copending application 09/574,740 has not been allowed.

With no other outstanding rejection, pending claims 62-97 are allowed.

The following is an examiner's statement of reasons for allowance:

The invention is drawn to compounds of (3-B-A-NH)-(4-X⁰)-(5-R¹)-(6-Q)-pyridone-*N*-(CH₂-C(=O)-NH-Y⁰). The closest reference, **Sanderson et. al.** (5,668,289—cited on IDS), teaches compounds of substituted amino-pyridone. However, the disclosed compound has a substituent represented by R³, which is different from the substituent represented by the instant variable Q. That is, R³ represents hydrogen, an alkyl, a cycloalkyl or trifluoromethyl group whereas the instant variable Q represents an aryl or heteroaryl group.

The second closest reference, **Blagg et. al.** (US 6,180,627 B1—cited on IDS), which also teaches compounds of substituted amino-pyridone. However, the disclosed compound has a bicyclic system at the end of the carboxamide side chain whereas the instant formula has Y⁰ as a monocyclic system. Also, the disclosed compound does not have a substituent corresponding to the instant Q either.

Because the difference in the teaching of Sanderson et. al.

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cannot be remedied by the teaching of Blagg et. al., there is no motivation for combining the two teachings.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

References cited on PTO-892

Two references cited on PTO-892 only show state of the art. Like Sanderson et. al. and Blagg et. al., they fail to teach a side chain corresponding to the instant side chain of $-(CH_2)-C(=O)-Y^0$, and an aryl or a heteroaryl group corresponding to the instant variable Q.

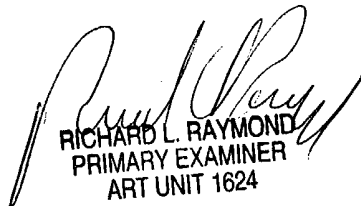
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamthom N. Truong whose telephone number is 571-272-0676. The examiner can normally be reached on M-F (~10 am ~ 6:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mukund Shah can be reached at 571-272-0674. If you are unable to reach Dr. Shah within a 24 hour period, please contact James O. Wilson, Acting SPE of 1624, at 571-272-0661.

The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1600.


T. Truong

April 29, 2004


RICHARD L. RAYMOND
PRIMARY EXAMINER
ART UNIT 1624